

MONTANA LEGISLATIVE HISTORY

Chapter 437 ~~19~~ 2003

Bill H 478 S \_\_\_\_\_

Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) \_\_\_\_\_ c

2/7 ✓ c

\_\_\_\_\_ c

\_\_\_\_\_ c

Date Out

2/7 ✓ c

S. Committee on Judiciary

Hearing Date(s) \_\_\_\_\_ c

3/12 ✓ c

\_\_\_\_\_ c

3/14 ✓ c

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Did this bill originate in an interim committee?        Yes        No

Committee \_\_\_\_\_

Report \_\_\_\_\_

Montana  
Legislative  
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# Montana Legislature

## Detailed Bill Information



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**Bill Draft Number:** LC1864

[Current Bill Text](#)

**Bill Type - Number:** HB 478

[Fiscal Note](#)

**Short Title:** Allow for driver license suspension for failure to comply with sentence

**Primary Sponsor:** Jim Peterson

## Bill Actions - Current Bill Progress: Became Law

**Bill Action Count:** 60

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| Action - Most Recent First                  | Date       | Votes<br>Yes | Votes<br>No | Committee |
|---------------------------------------------|------------|--------------|-------------|-----------|
| Chapter Number Assigned                     | 04/22/2003 |              |             |           |
| (H) Signed by Governor                      | 04/22/2003 |              |             |           |
| (H) Transmitted to Governor                 | 04/12/2003 |              |             |           |
| (S) Signed by President                     | 04/11/2003 |              |             |           |
| (H) Signed by Speaker                       | 04/11/2003 |              |             |           |
| (C) Sent to Printing                        | 04/11/2003 |              |             |           |
| (H) Returned from Enrolling                 | 04/10/2003 |              |             |           |
| (H) Sent to Enrolling                       | 04/09/2003 |              |             |           |
| (H) 3rd Reading Passed as Amended by Senate | 04/09/2003 | 93           | 6           |           |
| (H) Scheduled for 3rd Reading               | 04/09/2003 |              |             |           |
| (H) 2nd Reading Senate Amendments Concurred | 04/08/2003 | 90           | 9           |           |
| (H) Scheduled for 2nd Reading               | 04/08/2003 |              |             |           |
| (H) Revised Fiscal Note Printed             | 03/24/2003 |              |             |           |
| (H) Revised Fiscal Note Received            | 03/24/2003 |              |             |           |
| (H) Revised Fiscal Note Requested           | 03/20/2003 |              |             |           |
| (S) Returned to House with Amendments       | 03/18/2003 |              |             |           |
| (S) 3rd Reading Concurred                   | 03/18/2003 | 50           | 0           |           |
| (H) Revised Fiscal Note Requested           | 03/18/2003 |              |             |           |
| (S) Scheduled for 3rd Reading               | 03/18/2003 |              |             |           |

|                                                           |            |    |   |               |
|-----------------------------------------------------------|------------|----|---|---------------|
| (S) 2nd Reading Concurred on Voice Vote                   | 03/17/2003 | 49 | 0 |               |
| (S) Scheduled for 2nd Reading                             | 03/17/2003 |    |   |               |
| (C) Sent to Printing                                      | 03/14/2003 |    |   |               |
| (S) Committee Report--Bill Concurred as Amended           | 03/14/2003 |    |   | (S) Judiciary |
| (S) Committee Executive Action--Bill Concurred as Amended | 03/14/2003 | 8  | 0 | (S) Judiciary |
| (S) Hearing                                               | 03/12/2003 |    |   | (S) Judiciary |
| (S) Referred to Committee                                 | 02/24/2003 |    |   | (S) Judiciary |
| (S) First Reading                                         | 02/24/2003 |    |   |               |
| (H) Transmitted to Senate                                 | 02/17/2003 |    |   |               |
| (H) 3rd Reading Passed                                    | 02/17/2003 | 90 | 7 |               |
| (H) Revised Fiscal Note Printed                           | 02/17/2003 |    |   |               |
| (H) Scheduled for 3rd Reading                             | 02/17/2003 |    |   |               |
| (H) 2nd Reading Passed                                    | 02/15/2003 | 95 | 3 |               |
| (H) Fiscal Note Received                                  | 02/15/2003 |    |   |               |
| (H) Scheduled for 2nd Reading                             | 02/15/2003 |    |   |               |
| (H) Scheduled for 2nd Reading                             | 02/14/2003 |    |   |               |
| (H) Revised Fiscal Note Requested                         | 02/10/2003 |    |   |               |
| (C) Sent to Printing                                      | 02/08/2003 |    |   |               |
| (H) Committee Report--Bill Passed as Amended              | 02/08/2003 |    |   | (H) Judiciary |
| (H) Committee Executive Action--Bill Passed as Amended    | 02/07/2003 | 15 | 1 | (H) Judiciary |
| (H) Hearing                                               | 02/07/2003 |    |   | (H) Judiciary |
| (H) Fiscal Note Printed                                   | 02/07/2003 |    |   |               |
| (H) Fiscal Note Received                                  | 02/06/2003 |    |   |               |
| (C) Introduced Bill Text Available Electronically         | 01/31/2003 |    |   |               |
| (H) Referred to Committee                                 | 01/30/2003 |    |   | (H) Judiciary |
| (H) First Reading                                         | 01/30/2003 |    |   |               |
| (H) Fiscal Note Requested                                 | 01/30/2003 |    |   |               |
| (H) Introduced                                            | 01/30/2003 |    |   |               |
| (C) Draft Delivered to Requester                          | 01/29/2003 |    |   |               |
| (C) Draft Ready for Delivery                              | 01/16/2003 |    |   |               |
| (C) Draft in Assembly/Executive Director Review           | 01/15/2003 |    |   |               |
| (C) Draft in Final Drafter Review                         | 01/15/2003 |    |   |               |
| (C) Bill Draft Text Available Electronically              | 01/14/2003 |    |   |               |
| (C) Draft in Input/Proofing                               | 01/14/2003 |    |   |               |

|                                          |            |  |  |  |
|------------------------------------------|------------|--|--|--|
| (C) Draft to Drafter - Edit Review [CAJ] | 01/14/2003 |  |  |  |
| (C) Draft in Edit                        | 01/14/2003 |  |  |  |
| (C) Draft in Legal Review                | 01/14/2003 |  |  |  |
| (C) Draft On Hold                        | 01/13/2003 |  |  |  |
| (C) Draft to Requester for Review        | 01/06/2003 |  |  |  |
| (C) Fiscal Note Needed                   | 01/03/2003 |  |  |  |
| (C) Draft Request Received               | 01/03/2003 |  |  |  |

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## Sponsor, etc.

| Sponsor, etc.   | Last Name/Organization | First Name | Mi |
|-----------------|------------------------|------------|----|
| Requester       | Peterson               | Jim        |    |
| Drafter         | Petes                  | Greg       |    |
| Primary Sponsor | Peterson               | Jim        |    |

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## Subjects

| Description                                                                     | Revenue/Approp. | Vote Majority Req. | Subject Code |
|---------------------------------------------------------------------------------|-----------------|--------------------|--------------|
| Crimes                                                                          |                 | Simple             | CR           |
| Motor Vehicles (see also: Taxation--Trans; Traffic Regulations; Transportation) |                 | Simple             | MTRV         |
| Traffic Regulations (see also: Motor Vehicles)                                  |                 | Simple             | TRAF         |

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## Additional Bill Information

Probable Fiscal Note: Yes  
 Preintroduction Required: N  
 Session Law Ch. Number: 437  
**DEADLINE**

**Category:** General Bills**Transmittal Date:** 02/28/2003**Return (with 2nd house amendments) Date:** 04/05/2003[| Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

## Section Effective Dates

| Section(s)   | Effective Date | Date Qualified |
|--------------|----------------|----------------|
| All Sections | 01-OCT-03      |                |

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## 2003 Montana Legislature

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### HOUSE BILL NO. 478 INTRODUCED BY PETERSON

AN ACT ALLOWING A CRIMINAL SENTENCE TO INCLUDE A PROVISION FOR THE SUSPENSION OF THE LICENSE OR DRIVING PRIVILEGE OF THE CONVICTED PERSON UPON THE FAILURE TO COMPLY WITH ANY PENALTY, RESTRICTION, OR CONDITION OF THE SENTENCE; PROVIDING A PROCEDURE FOR THE SUSPENSION OF THE LICENSE OR DRIVING PRIVILEGE; AMENDING SECTIONS 46-18-201 AND 61-5-214, MCA; AND PROVIDING AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 46-18-201, MCA, is amended to read:

**"46-18-201. Sentences that may be imposed.** (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater,

for each particular offense.

(3) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(a) a fine as provided by law for the offense;

(b) payment of costs, as provided in 46-18-232, or payment of costs of court-appointed counsel as provided in 46-8-113;

(c) a term of incarceration at a county detention center or state prison, as provided in Title 45, for the offense;

(d) commitment of:

(i) an offender not referred to in subsection (3)(d)(ii) to the department of corrections, with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended; or

(ii) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(e) with the approval of the facility or program, placement of the offender in a community corrections facility or program as provided in 53-30-321;

(f) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, placement of the offender in a prerelease center or prerelease program for a period not to exceed 1 year;

(g) chemical treatment of sex offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; or

(h) any combination of subsections (2) through (3)(g).

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose upon the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

- (f) payment of costs as provided in 46-18-232 and 46-18-233;
  - (g) payment of costs of court-appointed counsel as provided in 46-8-113;
  - (h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;
  - (i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available, an order that the offender be placed in a prerelease center or prerelease program for a period not to exceed 1 year;
  - (j) community service;
  - (k) home arrest as provided in Title 46, chapter 18, part 10;
  - (l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
  - (m) with the approval of the department of corrections and with a signed statement from an offender that the offender's participation in the boot camp incarceration program is voluntary, an order that the offender complete the boot camp incarceration program established pursuant to 53-30-403;
  - (n) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; or
  - (o) any combination of the restrictions or conditions listed in subsections (4)(a) through (4)(n).
- (5) In addition to any penalties imposed pursuant to ~~subsection (4)~~ this section, if the sentencing judge finds that the victim of the offense has sustained a pecuniary loss, the sentencing judge shall require payment of full restitution to the victim as provided in 46-18-241 through 46-18-249.
- (6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.
- ~~(6)(7)~~ In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.
- ~~(7)(8)~~ If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise."

**Section 2.** Section 61-5-214, MCA, is amended to read:

**"61-5-214. Mandatory suspension for failure to appear or pay fine -- notice.** (1) The department shall suspend the license or driving privilege of a person immediately upon receipt of a certified copy of a docket page or other sufficient evidence from the court that the person:

- (a) is charged with or convicted of a violation of chapters 3 through 10 of this title or fails to comply with a



sentence imposed pursuant to 46-18-201;

(b) (i) failed to post the set bond amount or appear upon issued complaint, summons, or court order; or  
 (ii) when assessed a fine, costs, or restitution of \$100 or more, failed to pay the fine, costs, or restitution; and  
 (c) received prior written notice that the driver's license or driving privileges of the person will be suspended upon a failure to post bond or appear on an issued complaint, summons, or court order or upon a failure to pay assessed fines, costs, or restitution.

(2) The suspension continues in effect until the court notifies the department that the person has paid the reinstatement fee and either appeared in court or paid the assessed fines, costs, or restitution.

(3) The notice required under this section may be included on the summons or complaint and notice to appear form given to the person when charges are initially filed or may be contained in a court order, either hand-delivered to the person while in court or sent by first-class mail, postage prepaid, to the most current address for that person received by or on record with the court. The initial notice must be followed by a written warning from the court, sent by first-class mail, advising the person that a license suspension is imminent and of the probable consequences of a suspension unless the person appears or pays within a specified number of days."

**Section 3. Applicability.** [This act] applies to sentences imposed for offenses committed on or after [the effective date of this act].

- END -

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**Latest Version of HB 478 (HB0478.ENR)**

Processed for the Web on April 11, 2003 (7:29am)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the [status of this bill](#) for the bill's primary sponsor.

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Prepared by Montana Legislative Services

(406) 444-3064

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN JIM SHOCKLEY**, on February 7, 2003 at 8 A.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Jim Shockley, Chairman (R)  
Rep. Paul Clark, Vice Chairman (D)  
Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. George Everett (R)  
Rep. Tom Facey (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Michael Lange (R)  
Rep. Bruce Malcolm (R)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. John Parker (D)  
Rep. Holly Raser (D)  
Rep. Diane Rice (R)  
Rep. Scott Sales (R)  
Rep. Ron Stoker (R)  
Rep. Bill Thomas (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Branch  
Lisa Swanson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 478, 2/4/2003; HB 430, 2/4/2003  
Executive Action: HB 61; HB 478; HB 294

HEARING ON HB 478

Sponsor: REP. JIM PETERSON, HD 94, Buffalo

Opening Statement by Sponsor:

REP. PETERSON opened on HB 478, stating that this bill would amend Title 46 of the Criminal Code. He explained that it would allow a criminal sentence to include the suspension of a driver's license upon failure to comply with penalties, restrictions or conditions of the sentence. He explained that this bill would provide an additional toolbox for the judge.

*{Tape: 1; Side: A; Approx. Time Counter: 1 - 70}*

Proponents' Testimony:

Bill Price, Bozeman, supported HB 478.

Robert Throessel, Montana Magistrates Association, supported HB 478. He stated that as a deputy county attorney, in Justice of the Peace (JP) Court, he recognizes that some defendants know the system very well and manipulate it. He felt that the threat of losing their driver's license is a good tool for courts to use. He stated that the Magistrates of Montana are confident that this bill will be used selectively.

*{Tape: 1; Side: A; Approx. Time Counter: 71 - 172}*

Gary Olson, JP, Broadwater County, supported HB 478. He explained that driving is a privilege and that this bill would make defendants accountable.

*{Tape: 1; Side: A; Approx. Time Counter: 173 - 195}*

Opponents' Testimony: None

Informational Testimony:

Dean Roberts, Administrator, Department of Motor Vehicles Division (DMV), supported HB 478. He stated that the suspensions need to be properly documented.

Questions from Committee Members and Responses:

REP. RICE asked Mr. Olson about garnishing wages. Mr. Olson responded that he may consider garnishing wages but the suspension is easier and more economical for courts to utilize.

**REP. EVERETT** asked about the costs of reinstating a driver's license. **Mr. Peterson** responded that it costs \$25 at present to reinstate a driver's license. He explained that if the legislature increases the reinstatement to \$100, the fiscal note would be three times higher. **REP. FACEY** stated that this is a great bill and did not see the need for a sunset. **Mr. Peterson** responded that the sunset was not his idea but a suggestion to get the bill passed. He would prefer to not have a sunset in the bill.

**CHAIRMAN SHOCKLEY** asked Judge Olson whether suspending the driver's license was the quickest, easiest way. **Judge Olson** agreed that suspending the driver's license would work best.

*{Tape: 1; Side: A; Approx. Time Counter: 196 - 417}*

**Closing by Sponsor:**

**REP. PETERSON** closed on HB 478, stating this would be an effective additional tool for the courts to use. He stated that, in the long run, the rewards would far outweigh any additional expense.

*{Tape: 1; Side: A; Approx. Time Counter: 418 - 441}*

**HEARING ON HB 430**

**Sponsor:** **REP. CHRISTOPHER HARRIS, HD 30, Bozeman**

**Opening Statement by Sponsor:**

**REP. HARRIS** opened on HB 430, stating that this bill is an attempt to get hate crimes legislation right. He stated that hate crimes are a fact and why not recognize that they apply to all people, regardless of their status. He explained that by removing the status of the crime, everyone would be protected regardless of their gender, sexual orientation, or race. He stated this bill would make it easier to prosecute hate crimes because the prosecution would not have to show that the intimidation or harassment occurred because of the person's race, religion or gender. He felt that this bill is a better hate crime provision, easier to prove, applicable to everyone, and has tougher penalties.

*{Tape: 1; Side: A; Approx. Time Counter: 442 - 514}*

*{Tape: 1; Side: B; Approx. Time Counter: 1 - 7}*

**Proponents' Testimony:** None

to go to these events but that the ride home is an important consideration. He wanted to strike some language to create a window for youths to drive a friend home.

**Motion/Vote:** REP. PARKER moved that HB 61 BE AMENDED. Motion failed 8-10, by roll call vote, with REPS. NEWMAN, RICE, FACEY, GALLUS, PARKER, RASER, MALCOLM, and STOKER voting aye.

CHAIRMAN SHOCKLEY announced that the Parker amendment failed and the Committee was back on the bill.

*{Tape: 2; Side: A; Approx. Time Counter: 161 - 507}*

**Discussion:**

REP. LASZLOFFY stated this bill sends the wrong message to kids.

He stated that adults can drink legally, whereas kids under 21 cannot. REP. EVERETT stated he originally voted "no" on this bill but feels it is a good bill. REP. LANGE stated he does not support this bill. He believes it sends the wrong message to parents; that if your kid gets drunk, another kid may drive him home. CHAIRMAN SHOCKLEY agreed with REP. NEWMAN that this bill does not change current law. REP. SALES stated that this bill is going down the wrong road and he urged the Committee to not pass it.

**Motion/Vote:** REP. MALCOLM moved that HB 61 DO PASS. Motion carried 10-8, by roll call vote, with REPS. CLARK, THOMAS, GUTSCHE, LANGE, LASZLOFFY, NOENNIG, PARKER, and SALES voting no.

*{Tape: 2; Side: B; Approx. Time Counter: 1 - 153}*

**EXECUTIVE ACTION ON HB 478**

**Motion:** REP. GALLUS moved that HB 478 DO PASS.

**Motion:** REP. GUTSCHE moved that HB 478 BE AMENDED.

**Vote:** Motion that HB 478 BE AMENDED carried unanimously by voice vote.

**Motion:** REP. GALLUS moved that HB 478 DO PASS AS AMENDED.

**Discussion:**

*{Tape: 2; Side: B; Approx. Time Counter: 154 - 203}*

The Committee discussed whether this bill is necessary since the court can already garnish wages. The Committee felt that this bill would be a good tool for the courts to use. **REP. GALLUS** felt this was a poor bill because shoplifting and driving are totally unrelated and the conditions should be related to the original crime. **REP. NOENNIG** stated that he would propose a conceptual amendment that allows an arrangement with the court to get a work permit.

Motion/Vote: **REP. NOENNIG** moved that HB 478 BE AMENDED. Motion carried unanimously by voice vote.

Motion/Vote: **REP. NOENNIG** moved that HB 478 DO PASS AS AMENDED. Motion carried 15-1 by voice vote, with **REP. GALLUS** voting no.

EXECUTIVE ACTION ON HB 294

Motion: **REP. FACEY** moved that HB 294 DO PASS.

Motion: **REP. RASER** moved that HB 294 BE AMENDED (Laszloffy amendment).

Vote: Motion that HB 294 BE AMENDED carried 13-5 by roll call vote, with REPS. **FACEY**, **GALLUS**, **GUTSCHE**, **HARRIS**, and **LANGE** voting no.

Motion/Vote: **REP. NEWMAN** moved that HB 294 BE AMENDED. Motion failed 8-10, by roll call vote, with REPS. **CLARK**, **GALLUS**, **GUTSCHE**, **HARRIS**, **MALCOLM**, **NEWMAN**, **PARKER**, and **SHOCKLEY** voting aye.

Motion/Vote: **REP. FACEY** moved that HB 294 BE AMENDED (Facey Amendment). Motion failed 2-16, by roll call vote, with REPS. **FACEY** and **RASER** voting aye.

*{Tape: 3; Side: A; Approx. Time Counter: 1 - 28}*

Motion/Vote: **REP. FACEY** moved that HB 294 BE TABLED. Motion carried 10-8, by roll call vote, with REPS. **GUTSCHE**, **NEWMAN**, **PARKER**, **RASER**, and **SHOCKLEY** voting no.

# **MINUTES**

## **MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION**

### **COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN DUANE GRIMES**, on March 12, 2003 at  
8:07 A.M., in Room 303 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Duane Grimes, Chairman (R)  
Sen. Dan McGee, Vice Chairman (R)  
Sen. Brent R. Cromley (D)  
Sen. Aubyn Curtiss (R)  
Sen. Jerry O'Neil (R)  
Sen. Gerald Pease (D)  
Sen. Gary L. Perry (R)  
Sen. Mike Wheat (D)

**Members Excused:** Sen. Jeff Mangan (D)

**Members Absent:** None.

**Staff Present:** Judy Keintz, Committee Secretary  
Valencia Lane, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 350, 3/5/2003; HB 478, 3/5/2003;  
HB 402, 3/5/2003; HB 480, 3/5/2003  
Executive Action: HB 40; HB 212; HB 214; HB 66; HB  
402; HB 170; HB 171; HB 211

**CHAIRMAN GRIMES** asked if this would present any administrative challenges.

**Ms. Nordland** was granted leave to testify as an informational witness. She testified that in 1995, before the non-pay or appear law was changed, which has been very successful, approximately 5.26 percent of the workload on suspensions and revocations dealt with non-pay or appear. By last year 47 percent of the workload on suspensions and revocations came out of non-pay or appears from justice courts. There will be an administrative challenge if the DMV has to deal with another onset of suspensions. They would prefer to see an October 1 deadline, but they would like some programming time. **Ms. Nordland** stated the program is doable, if DMV is given appropriate resources.

**SEN. O'NEIL** asked how much the actual cost is to the agency to reinstate a license.

**Ms. Nordland** could put an exact time on the procedure, but responded it is a multi-step task performed by all of their employees. They have to take the non-pay certification sent from the court, ensure they have correctly identified the driver on the request, locate the file, either electronic or paper, making sure every data element in terms of who that person is, enter the suspension, then create and process a letter advising the offender of the suspension. A historical record is created to be used in the event the suspension is challenged. At the end of the suspension, the process is reversed.

**SEN. O'NEIL** did not believe, and **Ms. Nordland** agreed, \$100 is not out of line for performing the suspension.

**SEN. McGEE** recounted that in the DUI bills, they determined a revocation was better than a suspension.

**Ms. Nordland** explained current law provides a distinction between revocations and suspensions. A revocation means a termination of the privilege. In order to regain the privilege, an offender starts at the very beginning of the application process and is required to take the tests. A suspension, on the other hand, suspends the license for a period of time, and then the license comes back into being once the duration of the suspension is over.

**SEN. McGEE** understands that suspension puts a burden on the department, and as suspension is utilized more and more, it creates a problem for the department. **SEN. McGEE** is wondering if



revocation is easier for the department than suspension of a license.

**Ms. Nordland** stated the department is better off with suspensions rather than revocations. Revocation will put a burden on the driver exam stations.

**SEN. CROMLEY** reviewed Section 61-5-214(a)(i) and wondered if the bill does anything not already required.

**Ms. Nordland** reminded **SEN. CROMLEY** that (a), (b), and (c) are all required conditions which must be met. The bill applies not only to traffic-related citations, but broadens the law to the non-traffic related activities which justice courts and municipal courts have to deal with.

**SEN. WHEAT** asked **Ms. Nordland** if DMV has the resources available now to comply.

**Ms. Nordland** replied the assumption in the fiscal note is that they will have to ask for an additional FTE and additional expenditures to fund that FTE in HB 2. Publication of the fiscal note does not authorize the DMV to hire.

**Closing by Sponsor:**

**Rep. Peterson** pointed out that the fiscal note does permit one FTE in fiscal year 2004, and two additional FTEs in 2005. Therefore, the expense of the additional resources has been accounted for. In addition, the fiscal note is based on a \$25 reinstatement fee, and if it were to be increased to \$100, you could take the fiscal impact and multiply it by three to see the fiscal impact. **Rep. Peterson** has no objection to an October 1, 2003, effective date.

HEARING ON HB 402

Sponsor: Rep. Parker, HD 45, Great Falls.

Proponents: Mike McGrath, Montana Attorney General  
Sgt. Dan Kohm, Cascade County Sheriff's Office  
Brant Light, Cascade County Attorney  
and Vice-President of the Montana County  
Attorneys' Association  
Detective Pat Brinkman, Great Falls  
Police Department  
Jim Smith, Montana County Attorneys' Association,  
Montana Sheriff's and  
Peace Officers Association  
Jim Kembel, Montana Association of Chiefs  
of Police, and the Montana Police  
Protective Association

Opponents: Mike Barnett, Self

Opening Statement by Sponsor:

Rep. Parker explained HB 402 addresses the growing problem of meth labs in the state of Montana. Rep. Parker spoke of violent incidents in Great Falls because of meth addictions. Rep. Parker submitted written testimony and a fact sheet regarding the use of meth, EXHIBIT(jus52a04). HB 402 will substantially increase the penalties for producing meth.

Proponents' Testimony:

Mike McGrath, Attorney General of the State of Montana, has never seen anything like what is happening with methamphetamine in the state of Montana. Methamphetamine is incredibly addictive and has a huge impact on other crimes. This is not only a criminal justice problem, but creates problems for communities across the board. It affects social services and children of users. It impacts schools and is very difficult to treat. It requires lengthy inpatient treatment which has a huge impact on communities. HB 402 will increase the sentence for manufacturing meth and will provide a longer time to treat users.

Sgt. Dan Kohm, representing the Cascade County Sheriff's Office, submitted written testimony in support of HB 402, EXHIBIT(jus52a05).

(Tape : 3; Side : A)

**Brant Light, Cascade County Attorney and Vice-President of the Montana County Attorneys' Association**, stated this is a serious problem in Cascade County. The problem is with the people producing meth for profit. They are selling this drug on the backs of the weak and addicted. This bill will go after these people, who are the worst of the worst. When they arrest meth dealers, they usually find thousands of dollars in cash, which is clear sign they are making money. **Mr. Light** believes we need to take the profit away. A harsh sentence will help in investigation and prosecution. Cascade County has been devastated by this crime.

**Detective Pat Brinkman, representing the Great Falls Police Department**, works with street crimes in Great Falls, including meth labs and gang activity. **Detective Brinkman** and his partner discovered a fire in a multiple-family apartment building in Great Falls. The fire caused extensive damage and was a huge monetary loss for its landlord and tenants. During investigation, it was discovered a methamphetamine lab had exploded and caused the fire. The operators of meth lab ran from the scene without calling the fire department or alarming the other tenants. One of the individuals involved in this meth lab was 15 years old. The apartment is still not inhabitable because there are no existing standards defining what is clean and acceptable. Extensive testing must be done on this building at a huge cost. **Detective Brinkman** explained that meth addicts only care about the drug and have no conscience about the safety of others. **Detective Brinkman** explained the use of gas generators and their evidence of how many times a meth lab has cooked its product. Two kids in Great Falls found a discarded gas generator, and one kid was hospitalized with second-degree burns. Garbage from meth labs poses a huge health risk to whoever comes into contact with it.

**Jim Smith, representing the Montana County Attorneys' Association and the Montana Sheriff's and Peace Officers Association**, testified that it seems Cascade County is the epicenter of the epidemic, but that changes from year to year. The problem is not localized to large cities in Montana, and exists in even the most rural of Montana counties.

**Jim Kembel, representing the Montana Association of Chiefs of Police and the Montana Police Protective Association**, feels the bill will improve the safety of Montana for both citizens and law enforcement.

EXECUTIVE ACTION ON HB 350

Motion: SEN. PERRY moved HB 350 BE CONCURRED IN.

Motion: SEN. PERRY moved Amendment HB035001.avl.,  
EXHIBIT(jus54a08) BE ADOPTED.

Discussion:

Ms. Lane explained the amendment was suggested by Pam Bucy, Department of Justice, to remove subsection (j) on page 2.

SEN. WHEAT stated subsection (j) is possession of precursors to dangerous drugs and that reference will be eliminated from the title as well.

Vote: SEN. PERRY's motion that Amendment HB035001.avl. BE ADOPTED carried 7-0 with SENATORS GRIMES and CROMLEY not voting.

Motion: SEN. MANGAN moved HB 350 BE CONCURRED IN AS AMENDED.

Vote: SEN. MANGAN's motion HB 350 BE CONCURRED IN AS AMENDED carried 8-0 with SENATOR GRIMES not voting. SEN. CROMLEY will carry HB 578 on the Senate floor.

EXECUTIVE ACTION ON HB 402

Motion: SEN. PERRY moved HB 402 BE CONCURRED IN.

(Tape : 4; Side : A)

Vote: SEN. PERRY's motion carried 8-0 with SENATOR GRIMES not voting. SEN. PERRY will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 478

Motion: SEN. WHEAT moved HB 478 BE CONCURRED IN.

Motion: SEN. MANGAN moved Amendment HB047801.avl,  
EXHIBIT(jus54a09) BE ADOPTED.

Discussion:

Ms. Lane explained the amendment removes language added in the House on page 3, line 23. It also removes the effective date by removing Section 3, causing the bill to have an effective date of October 1. Ms. Lane further explained that the change on page 4,

line 26, is because standard drafting procedure requires an applicability date on or after the effective date.

**SEN. MCGEE** asked why the Committee wanted the language on line 23 stricken.

**Ms. Lane** remembered that suggestion was made by the sponsor and **Bob Throssell** because it waters down the effect of the bill if it allows for a provisional license.

**SEN. O'NEIL** wonders why they do not allow for a provisional license that would enable a person to go to work and feed their families.

**SEN. MANGAN** responded it is a penalty for noncompliance. An individual is afforded every opportunity to be responsible and not get to that point.

**Motion:** **SEN. O'NEIL** moved to segregate the amendment and that Instruction Nos. 1, 3, and 4 of **Amendment HB047801.avl BE ADOPTED**.

**Vote:** **SEN. O'NEIL's** motion that Instruction Nos. 1, 3, and 4 of **Amendment HB047801.avl BE ADOPTED** carried **UNANIMOUSLY**.

**Motion:** **SEN. O'NEIL** moved that Instruction No. 2 of **Amendment HB047801.avl NOT BE ADOPTED**.

**Discussion:**

**SEN. O'NEIL** feels this does not mandate the court to give a restricted or probationary license. However, if the court seeks it could be a hardship or cost a person their job, it should be an incentive. **SEN. O'NEIL** feels the court should have that discretion if it chooses to issue a probationary license.

**SEN. MCGEE** asked **SEN. O'NEIL** to keep in mind that this is not the first time the individual has come before the court, but is that because he has failed to comply with the penalties, restrictions, and conditions of a sentence.

**SEN. PERRY** agreed it may be the second time before a judge; however, we are adding the suspension or driving privilege, but he agrees with allowing the court the option. A person still needs to have the ability to function in their job to support their family and pay taxes. **SEN. PERRY** did not recall this being a significant issue during testimony.

**SEN. McGEE** told about driving an individual, who lost his driver's license because of drinking and driving, to work every day. Therefore, **SEN. McGEE** feels there are ways a person can get around.

**SEN. MANGAN** pointed out the incentive is to comply with the penalty, restriction, or condition. This penalty, restriction, or condition could have been a number of things. The responsibility is on the offender and the incentive is to comply with that restriction. The last thing a judge wants to see is the same people back in court.

**SEN. WHEAT** knows in a lot of cases a judge will work with people of limited means and allow for payments to be made on an installment plan. There are a lot of ways for people to be responsible and take care of these things. The courts need this kind of hard hammer to get compliance. **Ms. Nordland** testified 45 percent of license suspensions involve nonpayors.

**SEN. O'NEIL** feels taking a driver's license away so an individual cannot go to work, will compound the nonpayment issue rather than solve the problem. **SEN. O'NEIL** was not stating this should always happen, but he does feel it is a tool that should not be taken away from a judge.

**SEN. McGEE** pointed out to the Committee the use of the word "may" on line 20.

**SEN. PERRY** felt since the word "may" is used, the judge has the option of either zero action regarding the license or up to suspension. He wonders what penalties fall in between those two penalties.

**SEN. WHEAT** feels it will allow the judge to use the driver's license suspension as a hammer and that is how he perceives it would be used.

**SEN. O'NEIL** feels a judge would be more likely to suspend a license if he could issue a provisional license and allow the person to work.

**Vote:** **SEN. O'NEIL's** motion that instruction No. 2 of Amendment HB047801.avl NOT BE ADOPTED failed 1-6 with **Sen. O'Neil** voting aye.

**Motion:** **SEN. WHEAT** moved HB 478 BE CONCURRED IN AS AMENDED.

Vote: SEN. WHEAT's motion that HB 478 BE CONCURRED IN AS AMENDED carried UNANIMOUSLY. SEN. WHEAT will carry HB 478 on the Senate floor.

EXECUTIVE ACTION ON HB 480

Motion: SEN. MANGAN moved HB 480 BE CONCURRED IN.

Discussion:

SEN. PERRY stated lines 18 through 24 now reflect current law.

SEN. PERRY stated Section 61-7-104 is damage to a vehicle, i.e., hit and run with no injury. Section 61-7-105 is leaving the scene without giving aid to the injured. Section 61-7-106 is hitting an unintended vehicle and leaving the scene. If someone leaves the scene of an accident without rendering aid to an injured person should have a higher penalty in order to be a deterrent.

SEN. MANGAN liked the language stricken by the House that has higher penalties. SEN. MANGAN reminded the Committee that in the last session a bill was passed which contained a provision for confiscating a driver's license if a motorist drove off without paying for gasoline. Here, you drive away from an accident, and you get a \$10 fine. SEN. MANGAN feels penalties need to be balanced.

SEN. O'NEIL asked if these penalties would apply to an individual leaving the scene even if that individual did not cause the accident.

SEN. McGEE replied the bill deals with a driver hitting another vehicle. It is not a Good Samaritan law.

Ms. Lane explained all three sections, 61-7-104, 61-7-105, 61-7-107 begin with the phrase "the driver of any vehicle involved in an accident." Therefore, it would not include driving by an accident on the side of the road.

SEN. O'NEIL asked if it included Section 61-7-114.

(Tape : 4; Side : B)

Motion: SEN. MANGAN moved HB 480 be amended by striking the House language on lines 19 through 26 and reverting back to the introduced version of the bill.